

WORKERS COMPENSATION COMMISSION

CERTIFICATE OF DETERMINATION

Issued in accordance with section 294 of the *Workplace Injury Management and Workers Compensation Act 1998*

Matter Number: 6663/19
Applicant: Kendall Mary McGuirk
Respondent: The Abbeyfield Society Orange Inc
Date of Determination: 30 March 2020
Citation: [2020] NSWCC 96

The Commission determines:

1. The applicant sustained a psychological injury arising out of or in the course of her employment with the respondent on 30 April 2019 (deemed).
2. The applicant's employment was the main contributing factor to her injury.
3. The applicant was paid weekly compensation and medical expenses until 11 October 2019.
4. Since 12 October 2019, the applicant has had the capacity to undertake some work for 15 hours per week.
5. The applicant's pre-injury average weekly earnings since 12 October 2019 have been \$831.16.
6. Since 12 October 2019, the applicant has had the ability to earn \$326.10 per week.

The Commission orders:

7. The respondent is to pay the applicant \$338.83 per week as adjusted from 12 October 2019 to date and continuing pursuant to section 37(3)(a) of the *Workers Compensation Act 1987*.

A brief statement is attached setting out the Commission's reasons for the determination.

Glenn Capel
Senior Arbitrator

I CERTIFY THAT THIS PAGE AND THE FOLLOWING PAGES IS A TRUE AND ACCURATE RECORD OF THE CERTIFICATE OF DETERMINATION AND REASONS FOR DECISION OF GLENN CAPEL, SENIOR ARBITRATOR, WORKERS COMPENSATION COMMISSION.

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Lucy Golic
Acting Senior Dispute Services Officer
As delegate of the Registrar



STATEMENT OF REASONS

BACKGROUND

1. Kendall Mary McGuirk (the applicant) is 56 years old and commenced employment with The Abbeyfield Society Orange Inc (the respondent) as a housekeeper and cook on 3 February 2012. She last worked for the respondent on 30 April 2019. Her employment status is unknown.
2. It appears that when the applicant ceased work on 30 April 2019, she made a claim for weekly compensation and medical expenses due to a psychological injury sustained on 30 April 2019. Liability was accepted on a provisional basis by icare Workers Insurance (the insurer) on 10 May 2019. The insurer accepted liability for her psychological injury on 24 July 2019. The pre-injury average weekly earnings (PIAWE) was calculated at \$826.12.
3. On 18 September 2019, the insurer issued a notice pursuant to s 78 of the *Workplace Injury Management and Workers Compensation Act 1998* (the 1998 Act), disputing that the applicant had an on-going entitlement to weekly compensation and medical expenses because she did not have a total or partial incapacity for work due to her injury. It cited ss 33, 59 and 60 of the *Workers Compensation Act 1987* (the 1987 Act). Payments were made until 11 October 2019.
4. On 6 December 2019, following a request by the applicant's solicitor, the insurer reviewed its position and issued a further notice pursuant to s 287A of the 1998 Act in similar terms.
5. By an Application to Resolve a Dispute (the Application) registered in the Workers Compensation Commission (the Commission) on 17 December 2019, the applicant claims weekly compensation from 12 October 2019 to date and continuing pursuant to s 37 of the 1987 Act due to injury sustained on 30 April 2019 (deemed).

PROCEDURE BEFORE THE COMMISSION

6. I am satisfied that the parties to the dispute understand the nature of the application and the legal implications of any assertion made in the information supplied. I have used my best endeavours in attempting to bring the parties to the dispute to a settlement acceptable to all of them. I am satisfied that the parties have had sufficient opportunity to explore settlement and that they have been unable to reach an agreed resolution of the dispute.

EVIDENCE

Documentary evidence

7. The following documents were in evidence before the Commission and taken into account in making this determination:
 - (a) The Application and attached documents;
 - (b) Reply and attached documents;
 - (c) Application to Admit Late Documents, received on 10 March 2020, and
 - (d) Medical certificates (14) of Dr J Crew from 1 May 2019 to 30 January 2020 received on 17 March 2020.

Oral evidence

8. Neither party sought leave to adduce oral evidence or cross examine any witnesses.

PRELIMINARY ISSUE

9. In the Reply and at the telephone conference on 30 January 2020, the respondent's solicitor, Mr Turner, advised that the respondent wished to seek leave to dispute that the applicant had suffered a psychological injury and that her employment was a substantial and/or main contributing factor to any injury. I declined to consider the application at that stage.
10. At the arbitration hearing on 17 March 2020, the respondent's counsel, Mr Rickard, renewed the application for leave. In summary, he submitted that the evidence supported the contention that the applicant's employment was not the main contributing factor to her psychological condition.
11. The respondent's application for leave was opposed by the applicant's counsel, Mr Grimes, on the grounds that the insurer had accepted liability and had at no stage raised an injury dispute in the notices that it issued on 18 September 2019 and 6 December 2019. Further, no additional evidence had been adduced to support a declinature on the grounds that the applicant had not sustained an injury.
12. I rejected the respondent's application and gave ex-tempore reasons, which were recorded. I now provide some further comments.
13. Sections 78 and 79 of the 1998 Act require an insurer to give notice of a decision to a worker. They provide:

“78 Insurer to give notice of decisions

- (1) An insurer must give notice in accordance with this Division of any decision of the insurer—
 - (a) to dispute liability in respect of a claim or any aspect of a claim, or
 - (b) to discontinue payment to a worker of weekly payments of compensation, or reduce the amount of the compensation.
- (2) Notice of a decision of an insurer involving both a liability dispute and a discontinuation or reduction of weekly compensation may be combined into a single notice (subject to any provision of the Workers Compensation Guidelines requiring separate notices to be given).
- (3) The requirement to give notice of a decision to discontinue payment to a worker of weekly payments of compensation does not affect any limitation on weekly payments of compensation under Division 2 of Part 3 of the 1987 Act.

79 How notice of decision is given

- (1) A notice required by this Division must be given—
 - (a) to the claimant or worker concerned, and
 - (b) in the case of a notice of a decision to dispute liability—to the worker's employer, if required by the regulations.
- (2) The notice must contain a concise and readily understandable statement of the reason for the insurer's decision and of the issues relevant to the decision.
- (3) In addition, notice of a decision to dispute liability for a claim for compensation must identify any provision of the workers compensation legislation on which the insurer relies to dispute liability.

- (4) The regulations may make provision for—
 - (a) the manner in which a notice under this Division is to be given, and
 - (b) the form of and other information to be included in or to accompany the notice.”

14. Regulation 38 of the Workers Compensation Regulation 2016 (the 2016 Regulation) also sets out an insurer’s obligation to give notice. It provides.

“38 Notice of insurer decisions

(1) A notice under section 78 of the 1998 Act of an insurer’s decision to dispute liability in respect of a claim or any aspect of a claim (except in connection with a work injury damages matter), or to discontinue or reduce the amount of weekly payments of compensation, is to contain the following information—

- (a) a statement identifying all the reports and documents submitted by the worker in making the claim for compensation, and by the employer in connection with the claim,
- (b) a statement identifying all the reports of the type to which clause 41 applies that are relevant to the decision, whether or not the reports support the reasons for the decision,
- (c) a statement advising that a copy of a report required to be provided by the insurer under clause 41(3) (except as provided by clause 41(5) or (6)) accompanies the notice,
- (d) details of the procedure for requesting a review of the decision,
- (e) a statement to the effect that the worker can seek advice or assistance from the worker’s trade union organisation, from an Australian legal practitioner, from the Independent Review Officer or from any other relevant service established by the Authority,
- (f) the contact details for the Independent Review Officer,
- (g) the street address and the email address of the Registrar of the Commission,
- (h) a summary, in the approved form, of the effect of the decision, the worker’s rights of review, the procedure for requesting a review and the legal and other services that may be available to the worker to provide advice or assistance in relation to the dispute....”

15. The obligation on an insurer to give notice was described in similar terms in chapter B10 of the SIRA *Guidelines for Claiming Workers Compensation* (1 August 2016) (the Guidelines) that applied to claims made prior to 21 October 2019, and in chapter GN 8.1 of SIRA’S Claim Management Guide.

16. There is no doubt that the insurer failed to comply with its obligations under the 1998 Act, the Guidelines and the 2016 Regulation in relation to the injury dispute. No explanation was provided in a dispute notice or in the Reply. There was no “concise and readily understandable statement of the reason for the insurer’s decision and of the issues relevant to the decision”.

17. Section 289A of the 1998 Act sets out restrictions as to when a dispute can be referred to the Commission. It provides:

“289A Further restrictions as to when a dispute can be referred to Commission

- (1) A dispute cannot be referred for determination by the Commission unless it concerns only matters previously notified as disputed.
 - (2) A matter is taken to have been previously notified as disputed if:
 - (a) it was notified in a notice of dispute under this Act or the 1987 Act after a claim was made or a claim was reviewed, or
 - (b) it concerns matters, raised in writing between the parties before the dispute is referred to the Registrar for determination by the Commission, concerning an offer of settlement of a claim for lump sum compensation.
 - (3) The Commission may not hear or otherwise deal with any dispute if this section provides that the dispute cannot be referred for determination by the Commission. However, the Commission may hear or otherwise deal with a matter subsequently arising out of such a dispute.
 - (4) Despite subsection (3), a dispute relating to previously un-notified matters may be heard or otherwise dealt with by the Commission if the Commission is of the opinion that it is in the interests of justice to do so”.
18. Given the contents of the section, the respondent is not entitled to raise a dispute in relation to the issues identified by Mr Rickard unless “it is in the interests of justice to do so”.
19. In *Mateus v Zodune Pty Ltd t/as Tempo Cleaning Services*¹, Deputy President Roche stated:
- “In exercising her discretion under section 289A (4) the Arbitrator considered the following factors at paragraph 18 of her Reasons:
- (a) the degree of difficulty or complexity to which the un-notified issues give rise;
 - (b) when the insurer notified that it wished to contest any un-notified issue/s;
 - (c) the degree to which the insurer has otherwise fulfilled its statutory obligation to notify the worker of its decision disputing liability;
 - (d) any prejudice that may be occasioned to the worker, and
 - (e) any other relevant matters arising from the particular circumstances of the case.”²

¹ [2007] NSWCCPD 227 (*Mateus*).

² *Mateus*, [38].

20. The Deputy President continued and said:

“In determining whether it was ‘in the interests of justice’ to allow the Respondent Employer to dispute injury, the Arbitrator correctly identified at paragraph 18 of her Reasons the matters relevant to the exercise of the discretion (see [38] above). To those matters I would add the following observations:

- (a) a decision by an insurer to dispute a claim for compensation should not be made lightly or without proper and careful consideration of the factual and legal issues involved;
- (b) any insurer seeking to dispute an un-notified matter is seeking to have a discretion exercised in its favour and, accordingly, must act promptly to bring the matter to the attention of the Commission and all other parties;
- (c) any unreasonable or unexplained delay in giving notice of an un-notified matter will be relevant to the exercise of the discretion;
- (d) in exercising its discretion, the Commission may have regard to the merit and substance of the issue that is sought to be raised;
- (e) in assessing prejudice to the worker, it will be significant to consider when and in what circumstances the worker was first made aware of the un-notified issue that is sought to be raised;
- (f) though it will be relevant to the exercise of the discretion to keep in mind that the Commission must act according to equity, good conscience and the substantial merits of the case, those matters will not be determinative, and
- (g) the general conduct of the parties in the proceedings will also be relevant to the exercise of the discretion”.³

21. There is the possibility that the respondent may suffer prejudice if I decline to grant leave. If it is able to show that the applicant did not suffer a psychological injury, it may escape liability to pay compensation. However, the evidence currently before me is not decisive on this point.
22. Dr Teoh merely referred to the fact that the applicant did not have a diagnosable psychological condition at the time of his examination, not that the applicant had not sustained a psychological injury.
23. The insurer accepted liability for weekly payments and presumably paid medical expenses. It now seeks to dispute liability based on a report from a qualified medical specialist who examined the applicant four months after her injury.
24. In my view, the prejudice that the applicant will suffer should I grant the respondent leave will outweigh that of the respondent. It would be unreasonable for the applicant to be forced to meet a dispute regarding a psychological injury at this late stage.
25. Section 354 (3) of the 1998 Act provides that the Commission is to act according to “equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms”.

³ *Mateus*, [48].

26. On the basis of the evidence currently before me, I am not convinced about the merits of the respondent's application and in the interests of justice and having regard to the greater prejudice that the applicant will suffer, I decline to grant leave pursuant to s 289A (4) of the 1998 Act to allow the respondent to dispute that the applicant suffered a psychological injury.

ISSUES FOR DETERMINATION

27. The parties agree that the following issues remain in dispute:
- (a) whether the applicant has recovered from the effects of her psychological injury, and
 - (b) extent and quantification of the applicant's entitlement to weekly compensation.

REVIEW OF EVIDENCE

Applicant's statements

28. The applicant provided statements on 28 May 2019 (unsigned) and 13 December 2019. These statements largely deal with the circumstances of the applicant's injury and are not relevant to the nature of the dispute that I need to determine.
29. In her initial statement, the applicant stated that she was very anxious about the workers compensation process, but she was less stressed since she had left work. She tried to keep to herself and had not met up with friends as she had before.
30. In her later statement, the applicant advised that she experienced intense anxiety and stress about being at work and she had short term memory problems. She lacked an appetite, had trouble concentrating and she had low motivation. She had difficulty keeping in contact with a friend and she had problems with her social functioning.

Clinical notes and medical certificates of Dr Crew

31. I do not have the benefit of a report from the applicant's treating general practitioner, Dr Crew. Her clinical notes commence on 24 January 2014 and conclude on 31 May 2019.
32. Unfortunately, the notes are lacking in detail regarding the reasons for the applicant's attendances, her symptoms and complaints. There are references to a variety of health issues, but little mention of psychological problems.
33. The applicant was prescribed antidepressants including Diazepam, Aropax, Pristiq and Valium in late 2014 and until March 2015.
34. On 4 May 2016, Dr Crew recorded that the applicant's relationship with her partner had broken down. She was devastated and she was not sleeping. The doctor prescribed Tramadol and she continued to issue prescriptions for the rest of the year, in 2017 and in 2018.
35. On 22 June 2016, the doctor completed a Mental Health Plan. The doctor noted that the applicant was suffering from depression as a result of a relationship breakdown. The relationship with her daughter was also strained. The doctor advised that the applicant had not received specialist mental health care in the past and she recommended psychological counselling.
36. On 17 August 2018, the doctor noted that the applicant was using Tramadol for psychological stress.

37. On 25 September 2018, the doctor noted that the applicant was having a bad time and was unable to afford seeing the psychologist Susan Knight. It seems that Ms Knight was delving into the applicant's childhood which was too traumatic. She was prescribed Tramadol and Cymbalta.
38. On 24 October 2018, Dr Crews recorded the following history:
"multiple issues
printed form for victims counselling as unable to access internet
feels people at work talking about her- will take Christie with her for support to talk to work
ready to wean tramadol
use paracetamol bd instead and tramadol nocte as that is worse pain"
(misspelling corrected).
39. On 28 November 2018, the doctor noted:
"teary
tried to resolve things at work but unsuccessful
relationship breakdown - he said very hurtful things
will use tramadol prn
can't sleep- try zolpidem, never any issues with using sleeping tabs
not yet heard from victims support" (misspelling corrected).
40. It seems that the applicant may have stopped taking the Tramadol in late 2018 or early 2019, but Dr Crews continued to issue prescriptions for the medication and for Zolpidem to assist with her sleeping problems. Relationship concerns were identified at the consultation on 27 March 2019.
41. On 30 April 2019, Dr Crews reported:
"can't face going to work
too stressed
has paperwork confirming
feels may like to pursue as WorkCover case- will look up paperwork and book for tomorrow" (misspelling corrected).
42. On 1 May 2019, the doctor noted:
"Long consultation
has decided to pursue WorkCover
mental illness predates injury but has been made worse by work situation
feels undervalued, not listened to and bullied
has paperwork documenting her concerns to workplace which have not been actioned"
(misspelling corrected).
43. In her initial certificate dated 1 May 2019, Dr Crew advised that the applicant had a mixed anxiety depressive disorder. She stated that the applicant had suffered from a prior mental illness and her condition had been made worse by her work situation.
44. Dr Crew stated that the applicant's mood and anxiety had been made worse by unresponsiveness to workplace grievances and bullying by a staff member. The applicant identified her date of injury as May 2016.
45. Dr Crew certified that the applicant had no current work capacity from 30 April 2019 and she referred the applicant to a psychologist, Susan Knight.

46. Dr Crew continued to issue similar certificates and commented on the need for mediation in the workplace. In the certificate dated 20 August 2019, Dr Crew indicated that she had prescribed a low dose of Quetiapine to address the applicant's sleeping issues.
47. In the certificate dated 26 September 2019, Dr Crew noted that the applicant had her first mediation session, but it did not go well, and the issues were not resolved.
48. The last WorkCover certificate certified that the applicant had no current work capacity until 23 October 2019. The certificate dated 22 November 2019 referred to "leave without pay for the period 20/11/19 to 20/12/19".
49. In two Centrelink certificates, Dr Crew advised that the applicant had anxiety and depression arising from a temporary exacerbation of a permanent condition that commenced in 2013. She certified that the applicant was totally unfit for work from 20 December 2019 to 1 April 2020. Her symptoms comprised panic attacks, poor sleep, poor concentration, low mood and flashbacks.

Clinical note and report of Susan Knight

50. In the clinical note dated 9 August 2018, Ms Knight recorded that the applicant had suffered a number of childhood issues and was traumatised by relationship problems involving her partner and daughter. The applicant told Ms Knight that she loved her job at the respondent.
51. In a report dated 15 August 2018, Ms Knight noted that the applicant was experiencing severe ongoing distress relating to the discovery of an inappropriate relationship between her partner and her daughter. She immediately terminated the relationship with her partner and stayed with her sister for three months. She was still coming to terms with the situation and she felt extreme guilt. She had resorted to drugs and alcohol to cope with life stressors, but had no thoughts of self-harm.
52. Ms Knight advised that the applicant grew up with her grandmother who showed her no affection. Her father and her daughter's father were alcoholics, and she had been exposed to domestic violence when her daughter was born. She reported that the applicant "loves her work with older people and that it brings stability and meaning to her life".
53. Ms Knight diagnosed anxiety and depression. Her symptoms were also consistent with Post-Traumatic Stress Disorder. She recommended counselling and cognitive behavioural therapy.

Clinical notes and reports of Leigh Underwood

54. In the Approved Counselling Service Initial Assessment Report dated 7 July 2019, Ms Underwood recorded that the applicant had been exposed to acts of violence by her mother and she thought that she had been sent away from home due to sexualised behaviours by her uncle. She started drinking and taking codeine and gave birth to a child with intellectual disability and cerebral palsy just after she finished Year 12. The father of her child was violent. She drank a lot and previously took drugs. Another partner sexually abused her daughter. This last event had caused her the most distress.
55. In a report dated 17 August 2019, Ms Underwood advised that she had been seeing the applicant under Victims Services Counselling Support. She stated that the applicant had very low mood and high levels of anxiety. She had a long history of trauma dating back to her childhood.

56. Ms Underwood reported that the applicant experienced flashbacks and she had very poor self-esteem. At times she binged on alcohol, but this was under control. Ms Underwood recommended that the applicant consider taking antidepressants at a small dose of Quetiapine that might assist her with the flashbacks, anxiety and disrupted sleep. She thought that it was likely that the applicant was suffering from Post-Traumatic Stress Disorder.
57. The clinical notes of Leigh Underwood commence on 17 August 2019. She reported that the applicant had low and anxious mood, was easily brought to tears and she had poor self-esteem.
58. The applicant told Ms Underwood about childhood issues and the possible inappropriate behaviour by an uncle towards her. She had suffered violent relationships and she had used drugs and abused drugs in the past. The applicant stated that she had been assaulted by a resident at the respondent and she had been off work on compensation. Her partner had been physically abusive toward her and she had to leave.
59. Ms Underwood noted that the applicant had returned to the respondent's premises but felt very anxious, because her flat was only separated from the resident by one door. She felt at constant risk and was unsure what to do next. Ms Underwood recommended that the applicant see her doctor for medication.
60. On 9 November 2019, Ms Underwood noted that the applicant had seen a psychiatrist and he had asked her about night terrors that made her think about her childhood and the possible sexual assault by a friend of her father.
61. The note regarding a later consultation is undated, but there is reference to the arbitration hearing on 17 March 2020, so this consultation would have been held after the telephone conference was conducted in the Commission on 30 January 2020.
62. Ms Underwood noted that the applicant was feeling down and worse when she said goodbye to the residents at the respondent's premises. One of the residents to whom she had been speaking had died shortly afterwards and she was extremely distressed when she was told about this. She noted the applicant's complaints and recommended that she see her doctor so that she could review her medication.

Report of Dr Potter

63. Dr Potter reported on 29 October 2019. He noted that the applicant had been exposed to workplace bullying. She eventually had "a big explosion" when she was serving a resident and was asked to do something else. She went off work and sought treatment.
64. Dr Potter noted that the applicant's difficulties began in 2016 when she had a very emotional break up with her partner following his involvement with her daughter. The applicant described the experience as "catastrophic", and that she needed time off to sort out the issues. Apparently during this time, she had ongoing difficulties with work.
65. The applicant told the doctor that a work colleague had talked to residents about her personal life and as a result of the difficulties that she had with this person, she saw her doctor on 30 April 2019.
66. Dr Potter reported that the applicant saw her doctor on a fortnightly basis and was taking antidepressants, Quetiapine and Citalopram. She had consulted a psychologist regarding her relationship break up and she had talked about her work. She stated that she sometimes slept for hours and did not feel like getting out of bed. She was able to self-care. She was anxious and she had experienced suicidal ideation. She had experienced night terrors since her early 20s and her short term memory was not good.

67. The applicant told the doctor that work was her life and was all consuming. She did not have activities apart from walking once a week and crocheting. She had no friends in Orange and those elsewhere checked on her. She had not been social since the breakup of her marriage.
68. Dr Potter recorded details of the applicant's troubled childhood, her pregnancy, the violent second relationship, and the last relationship which ended following her partner's relationship with her mentally impaired daughter. The applicant admitted to drug addiction for three years in the 90s, but she had taken no illicit drugs since then.
69. Dr Potter diagnosed an Adjustment Disorder with mixed anxiety and depression which was related to her described workplace experiences of feeling bullied, intimidated, and abandoned when requesting help or support. He stated that it was unlikely that the applicant would be able to return to work with the respondent unless in a supported and safe environment.
70. Dr Potter stated that the applicant had received minimal psychological treatment and had only been prescribed antidepressants. The doctor recommended that the applicant see a psychiatrist and he believed that with on-going treatment, it would be clinically reasonable to expect that she would be able to return to her previous work duties at a different workplace.

Report of Dr Teoh

71. Dr Teoh reported on 20 August 2019. He recorded a history of the issue with the printer on 30 April 2019 and the fact that many of her complaints had been ignored. She became emotionally distressed, and she had "had enough". She consulted her doctor but was not prescribed any treatment.
72. Dr Teoh reported that the applicant had been feeling anxious and she had difficulty sleeping. She was uncertain whether she wanted to return to work due to a variety of issues. She had made several complaints, but she was not taken seriously by management.
73. Dr Teoh noted that the applicant had a history of anxiety symptoms since her adolescence, and she was diagnosed with an anxiety disorder in 2014. She had grown up with her maternal grandmother who was not affectionate, and she gave birth after she completed her HSC. There was no history of child, alcohol or drug abuse. Her 20 year relationship broke up in 2016 and she had three months off work.
74. Dr Teoh stated that the applicant's presentation was not consistent with a psychiatric diagnosis. The applicant described emotional distress as a result of industrial issues and interpersonal problems. He acknowledged that the applicant had a pre-existing psychiatric condition with symptoms of anxiety, and she required counselling when she separated from her partner in 2016. He stated that any aggravation had ceased.
75. Dr Teoh stated that the applicant did not require any treatment and the main obstacle to a return to work and full recovery was the unresolved industrial issues and personal problems, which included interpersonal relationship issues with one of the Committee members. He considered that the applicant was fit to return to her pre-injury duties.
76. There are a number of other statements and correspondence from employees of the respondent, but they deal with the applicant's injury and other matters which are not relevant to the present dispute.

APPLICANT'S SUBMISSIONS

77. Mr Grimes submits that none of the issues identified by the applicant in her statement have been challenged by the respondent, so one can accept her evidence regarding the effect that the stress caused by these matters had on her.
78. Mr Grimes submits that the clinical notes of Dr Crews support the applicant and the history recorded in her statement. The doctor accepted that the applicant had past problems, but her anxiety was made worse and the cause of the applicant's incapacity were the events identified in her statement. Sue Burke also confirmed in her statement that the applicant was not coping with her job. Her evidence is supportive of a work related cause.
79. Mr Grimes submits that the notes of Ms Underwood support the applicant's claim. In her report dated 17 August 2019, Ms Underwood reported that the applicant had returned to the respondent but had felt very anxious, so there were on-going symptoms due to her workplace.
80. Mr Grimes submits that the certificates of Dr Crews, and in particular the certificate dated 20 August 2019, confirmed that the applicant had no current work capacity and that she required medication and counselling.
81. Mr Grimes submits that when Dr Teoh saw the applicant at around this time, he stated that the applicant did not have a psychiatric diagnosis based on his findings on that day. This meant that Dr Teoh excluded other material when he came to his conclusion.
82. Mr Grimes submits that Dr Teoh did not address the applicant's history that she was anxious and had difficulty sleeping. Further, his suggestion that she had not been prescribed medication or she had not received counselling is inconsistent with the medical certificates of Dr Crews. Even if the applicant was not having this treatment at that stage, this has been addressed since that time. Dr Teoh's opinion was also inconsistent with the GP Mental Health Plan dated 22 June 2016.
83. Mr Grimes submits that Dr Teoh seems to have disregarded the applicant's history, her report of symptoms and the opinion of Dr Crews. Dr Teoh indicated that there were no diagnostic criteria, but he did not give any reasons. His reference to industrial issues and interpersonal problems minimised the significance of the events that led to the applicant's injury.
84. Mr Grimes submits that Dr Teoh's opinion regarding the applicant's recovery is not supported by the history and her treatment. His report is internally inconsistent and is not supported by any reasons or comment on the previous psychological history. Therefore, little or no weight can be given to his opinion.
85. Mr Grimes submits that Dr Potter recorded that the applicant was having counselling and was taking medication, which contrasts with the history recorded by Dr Teoh. Dr Potter noted that the applicant was anxious, suicidal and slept a lot. These symptoms support an on-going incapacity that can be attributed to the applicant's undisputed injury.
86. Mr Grimes submits that according to Dr Potter, the applicant had an Adjustment Disorder which did not represent an aggravation of a pre-existing condition, and it was unlikely that the applicant could return to work at the respondent. The doctor stated that the applicant required future treatment and needed to consult a psychiatrist. Her prognosis is unknown, and he provided an aspirational opinion regarding the applicant's ability to work elsewhere, which was not borne out by the need to take medication and have psychiatric treatment. His opinion needs to be viewed in light of the other medicine.

87. Mr Grimes submits that the applicant had a pre-existing condition, but was able to work until she suffered her injury. There is no evidence to suggest that the applicant's incapacity relates to her pre-existing psychological condition, so one cannot attribute this to anything other than her work injury.
88. Mr Grimes submits that the history recorded by Ms Underwood prior to 21 March 2020 confirms that workplace stressors were still at the forefront. According to the clinical notes of Dr Crews, the applicant was last prescribed antidepressants on 5 October 2018. Any incapacity started after the applicant's work injury. Dr Teoh did not say that the applicant was incapacitated by any pre-existing condition, and his views are inconsistent with the other medical opinions. Dr Crews provided certificates of total incapacity.
89. In reply, Mr Grimes submits that Dr Crews provided a very honest history in her certificates and her notes. There is no dispute that the applicant had past problems, but these were disclosed. There are no credit issues. Whilst Drs Teoh and Potter had incomplete histories, there is no competing factual material to dispute the applicant's evidence.
90. Mr Grimes submits that the applicant's condition fluctuated before her work injury. However, her condition improved with treatment. She was prescribed Tramadol for physical injuries sustained since 2014. It was not the case that the applicant was abusing Tramadol without a physical reason. She disclosed to her doctor that she was using it for psychological stress.
91. Mr Grimes submits that on 14 November 2018, the applicant complained to Dr Crews about issues at work, and this is corroborated in her statement. The applicant has support from Dr Potter and Dr Crews, and one should accept that she has no current work capacity.

RESPONDENT'S SUBMISSIONS

92. Mr Rickard submits that Dr Teoh carried out an objective assessment of the applicant and the history of past issues is of little relevance. The applicant had emotional stress due to her work, multiple grievances and personal issues. The doctor recorded a simple history of a breakdown in 2016, but this event was much more significant than that which was disclosed.
93. Mr Rickard submits that Dr Teoh stated that the applicant did not have a diagnosable psychological illness at the time that he examined her in August 2019, be it a fresh injury or an aggravation of a pre-existing condition.
94. Mr Rickard submits that Dr Potter diagnosed an Adjustment Disorder and he considered that the applicant required on-going treatment. Nevertheless, he stated that she was fit for work elsewhere despite her symptoms. Therefore, the applicant has the capacity to work in full duties without any wage loss. It is difficult to say which opinion carries greater weight, as these doctors did not have all of the material that is presently before the Commission.
95. Mr Rickard submits that Dr Potter recorded a generalised history that lacked details of the circumstances of the applicant's injury. The final event was described as a "big explosion", and no more. Her personal life was recorded in more detail, but this was only a thumbnail sketch. There was insufficient factual information about the events at work, the applicant's personal life and her issues for Dr Potter to come to the conclusion that he did. In order to determine which opinion should be preferred, one needs to look at the background history of the applicant's difficult life.
96. Mr Rickard submits that the clinical notes of Dr Crews reveal that the applicant was prescribed Diazepam for anxiety on 22 August 2014 and on 18 December 2014, she was prescribed Pristiq. It could not be said that her condition was short-lived, and it was fluctuating. This was not disclosed to Drs Teoh and Potter. One would need to draw an inference as to whether the applicant had made a full recovery from her injury as at 12 October 2019, or whether her condition returned to its pre-injury state from at least 2014.

97. Mr Rickard submits that the applicant had family difficulties in April 2015, and she was prescribed medication. She was not again prescribed medication, Lyrica, until 21 August 2015. In early 2016, she was prescribed Endep and Amtrip. Following the relationship issue in May 2016, she was prescribed Pristiq. She was off work for three weeks and she had counselling. In August 2018, she was taking Tramadol as a substitute for antidepressants.
98. Mr Rickard submits that the applicant was unable to afford to see Ms Knight in September 2018, and she was prescribed Cymbalta in October 2018. This was during the time of the events at work, but there were no references to any work issues.
99. Mr Rickard submits that Dr Crews recorded multiple issues on 24 October 2018 and the applicant was having victim's counselling. On 14 November 2018, the doctor recorded that the applicant was trying to resolve issues at work and her relationship breakdown was still a concern some three years later. The applicant was taking Tramadol as a substitute medication and was waiting to hear from Victims Services.
100. Mr Rickard submits that on 27 March 2019, the applicant told the doctor that she was upset because her daughter had dreamt about her ex-partner. This was shortly before the printer incident at work. This history allows one to draw the inference that the applicant's personal psychological issues had lasted for three years.
101. Mr Rickard submits that there is no detailed report from Dr Crews explaining the views expressed in her certificates regarding the effects of the work events and why the non-work events were irrelevant.
102. Mr Rickard submits that Ms Knight focussed on the non-work related events. She saw the applicant in August 2018, only a matter of months before she ceased work. The applicant spoke about her childhood issues and said that she loved her work, which gave her stability and meaning in life. There was no suggestion of any problems at work.
103. Mr Rickard submits that Ms Knight diagnosed anxiety and depression with symptoms consistent with Post-Traumatic Stress Disorder, as a result of her personal relationship issues. If there was an aggravation caused by the applicant's employment, one would be entitled to draw the inference that the circumstances that led to the aggravation paled into insignificance when compared to the applicant's emotional issues.
104. Mr Rickard submits that Ms Underwood recorded details of the applicant's relationship break up and this was the main issue identified in the initial assessment report. In her report, she recorded details of an assault by a resident that resulted in a worker's compensation claim. There was no suggestion that the assault caused a psychological injury.
105. Mr Rickard submits that in the absence of a clear history given to the doctors, one could accept that at the time that Dr Teoh saw the applicant in August 2019, she did not show evidence of a diagnosable psychiatric condition. Dr Potter stated that it was not inconsistent that the applicant would be able to work. It was more probable that any on-going problems were the product of the applicant's longstanding psychological condition, and the effects of any work injury had ceased.

REASONS

Has the applicant recovered from the effects of her work injury?

106. There is no dispute that the applicant sustained a psychological injury on 30 April 2019 (deemed). Liability was accepted by the insurer and weekly payments were made until 11 October 2019.

107. What I need to determine is whether the applicant had recovered from the effects of her psychological injury by the time that Dr Teoh examined her on 16 August 2019. This is a question of causation, so one must have regard to the common-sense evaluation of the causal chain as discussed in *Kooragang Cement Pty Ltd v Bates*⁴, where Kirby J stated:

“The result of the cases is that each case where causation is in issue in a workers compensation claim must be determined on its own facts. Whether death or incapacity results from a relevant work injury is a question of fact. The importation of notions of proximate cause by the use of the phrase ‘results from’ is not now accepted. By the same token, the mere proof that certain events occurred which predisposed a worker to subsequent injury or death, will not, of itself, be sufficient to establish that such incapacity or death ‘results from’ a work injury. What is required is a common sense evaluation of the causal chain. As the early cases demonstrate, the mere passage of time between a work incident and subsequent incapacity or death, is not determinative of the entitlement to compensation.”⁵

108. The applicant’s statements are of little assistance regarding the effects of her psychological injury since liability was declined by the insurer in September 2019. She claimed that she experienced intense anxiety and stress about being at work and she had problems with her short term memory, appetite, concentration, motivation and social functioning.
109. Despite the shortcomings in her statements, I have no reason to doubt the applicant’s honesty and reliability. The histories recorded by Drs Potter and Teoh acknowledge that she has experienced a variety of symptoms including anxiety since at least 2014. Dr Potter acknowledged that the applicant had on-going symptoms and his opinion is corroborated by the medical certificates of Dr Crews, who has seen the applicant on a regular basis over the years.
110. Unfortunately, the clinical notes of Dr Crew are of minimal assistance. They show that the applicant has suffered from personal and psychological issues extending back to 2014. She was prescribed various antidepressants from 2014 to March 2015, but there were no further antidepressant prescriptions issued until after the relationship breakup in May 2016.
111. On 22 June 2016, the applicant was prescribed Pristiq, and the Mental Health Plan completed on that date described the significance of this event. The doctor did not prescribe further antidepressant medication and it seems that the applicant relied on the painkiller, Tramadol, to address any psychological symptoms in between 2016 and early 2019.
112. In September 2018, Dr Crews reported that the applicant was struggling during her counselling sessions because Ms Knight was discussing her childhood issues, so she prescribed Cymbalta.
113. There were no complaints regarding any work issues until the consultation on 24 October 2018. The applicant identified relationship and further work issues on 28 November 2018, so it seems that issues at home and at work were impacting on her. At the time of the printer incident in April 2019, the applicant was taking sleeping medication and Tramadol.
114. The first reference to stress was recorded on 30 April 2019, and on 1 May 2019, the doctor notes that the applicant’s mental illness predated her work injury but had been made worse by the work situation. So, it seems that the doctor was of the view that the applicant had suffered an aggravation of her pre-existing psychological condition. In her certificates, the doctor diagnosed a mixed anxiety depressive disorder which she attributed to her work injury, rather than to her pre-injury condition.

⁴ (1994) 35 NSWLR 452; 10 NSWCCR 796 (*Kooragang*).

⁵ *Kooragang* [463].

115. Sadly, the notes conclude in May 2019 and whilst the certificates identify on-going treatment that includes counselling and medication, the type of medication and the degree of counselling is not disclosed. The certificates seem to have been issued with minimal revision.
116. At around the time that the applicant saw Drs Teoh and Potter, Dr Crews prescribed Quetiapine to help the applicant sleep. The only reference to the applicant's symptoms in more recent times are in the Centrelink certificates. It was noted that the applicant experienced panic attacks, poor sleep, poor concentration, low mood and flashbacks. It certainly would have been preferable to have a detailed report from Dr Crews in evidence.
117. The clinical notes of Ms Knight predate the work injury and focus on the applicant's personal issues. It seems that the applicant reported no work issues at that stage, given the history that she loved her work. According to Ms Knight, the applicant had anxiety and depression, or possibly Post-Traumatic Stress Disorder. Her evidence does not assist regarding the capacity issue that I need to determine.
118. The notes of Ms Underwood also focused on the applicant's domestic issues, which is not surprising, given that she was counselling the applicant under Victims Services. Curiously, Ms Underwood recorded that the applicant had been assaulted at work and was anxious when she returned to work. Such a history is not reported elsewhere. She diagnosed Post-Traumatic Stress Disorder. Her evidence is also of little assistance.
119. Dr Potter recorded brief details of workplace bullying, the incident on 30 April 2019 and her cessation of work. He recorded a detailed history about the applicant's past interpersonal issues and the significant psychological impact caused by the event in 2016. and the fact that she was seeing a psychologist to deal with these issues. The applicant was anxious, and she had trouble sleeping. She experienced suicidal ideation, and her short term memory was poor.
120. Dr Potter's history fills in some of the gaps regarding the applicant's treatment regime and symptoms since she ceased work. He noted that the applicant was seeing her general practitioner every two weeks and she was taking Quetiapine. She had been taking Citalopram for six weeks. Significantly, the applicant had not been taking an antidepressant at the time of her work injury.
121. Dr Potter was acutely aware of the applicant's interpersonal issues, and yet he was satisfied that the applicant had developed an Adjustment Disorder with mixed anxiety and depression due to her work experiences.
122. According to Dr Potter, it was clinically possible for the applicant to perform her pre-injury duties elsewhere, but he emphasised she needed to see a psychiatrist and have on-going treatment that would enable her to do so. Therefore, the applicant has the support of Dr Potter in respect of an on-going work related condition and the need for more intensive treatment.
123. Dr Teoh was aware of the applicant's past and present interpersonal issues and the various events at work. Curiously, he did not record the drug and alcohol issues that were reported elsewhere. Nevertheless, "injury" is not in dispute, so any deficiencies or inconsistencies are largely irrelevant.
124. Dr Teoh noted feelings of anxiety and anxiety attacks, depression, and sleeping problems, and yet he described the applicant's condition as "emotional distress" due to industrial issues and interpersonal problems. The history that the applicant had no suicidal ideation or memory issues contrasts with the histories recorded elsewhere.

125. Dr Teoh noted that the applicant had not been prescribed any treatment, which might well have been correct at the time of his medical examination on 16 August 2019, as Dr Crews prescribed Quetiapine to help the applicant sleep on 20 August 2019 and Citalopram about six weeks prior to Dr Potter's examination on 29 October 2019. I have already commented on the inadequacy of the evidence regarding the applicant's post injury treatment.
126. Dr Teoh suggested that any aggravation of the pre-existing condition had ceased, without giving any detailed reasoning for his conclusion. He disputed the need for any treatment, and stated that the applicant was fit to return to her pre-injury duties, and yet he identified unresolved industrial issues and personal problems as barriers to a return to work and full recovery. Therefore, I agree with Mr Grimes that Dr Teoh's report is internally inconsistent.
127. The authorities establish that an expert's explanation of his or her opinion will vary from case to case⁶. Further, the expert does not have to "offer chapter and verse in support of every opinion."⁷
128. It is well established in the authorities such as *Paric v John Holland (Constructions) Pty Ltd*⁸, *Makita (Australia) Pty Ltd v Sprowles*⁹, *Hevi Lift (PNG) Ltd v Etherington*¹⁰, *South Western Sydney Area Health Service v Edmonds*¹¹ and *Hancock v East Coast Timbers Products Pty Ltd*¹² that there must be a "fair climate" upon which a doctor can base an opinion. Whilst it is accepted that a doctor does not need to provide elaborate or detailed explanations for his conclusion, one needs more than a mere "*ipse dixit*".
129. In my view, Dr Teoh's opinion is lacking detailed reasons as to why he was of the view that the applicant had no diagnosable psychological condition and that she had recovered from any aggravation of the pre-existing condition. He recorded a reasonably detailed history of the applicant's work issues, but he seemed to discount what the applicant said to him.
130. The evidence supports the fact that the applicant has been having treatment and taking antidepressant medication after Dr Teoh's examination, and perhaps beforehand, although that is unknown. If the applicant was only suffering from emotional distress, one would have thought that treatment of such a condition would not involve the prescription of antidepressants.
131. The applicant took three weeks off work when her relationship broke down in 2016. It seems clear from the evidence, particularly that of the psychologists, that the applicant is still suffering psychological issues due to her interpersonal problems.
132. However, the evidence shows that despite long term interpersonal issues, the applicant was able to continue to work. She suffered a psychological injury, and this put her off work. There seems little doubt that the cause of her current psychological condition is multifactorial, and she still has symptoms associated with work and non-work factors.
133. The weight of evidence does not suggest that the effects of her work injury have subsided. In the circumstances, I am satisfied that the evidence of the applicant and the opinions of Drs Crews and Potter should be preferred to that of Dr Teoh.
134. Therefore, bearing in mind the principles set out in *Kooragang*, the common-sense evaluation of the causal chain supports the conclusion that the applicant has not recovered from the effects of her psychological injury sustained on 30 April 2019.

⁶ *Adler v Australian Securities and Investments Commission* [2003] NSWCA 131, [631].

⁷ *Sydneywide Distributors Pty Ltd v Red Bull Australia Pty Ltd* [2002] FCAFC 157, [89].

⁸ [1985] HCA 58 (*Paric*).

⁹ [2001] NSWCA 305; 52 NSWLR 705 (*Makita*).

¹⁰ [2005] NSWCA 42; 2 DDCR 271 (*Hevi Lift*).

¹¹ [2007] NSWCA 16; 4 DDCR 421 (*Edmonds*).

¹² [2011] NSWCA 11 (*Hancock*).

Extent of the applicant's capacity – s 37 of the 1987 Act

135. An assessment of the applicant's capacity after 1 January 2013 involves a consideration of whether the applicant has no current work capacity or a current work capacity as defined in s 32A of the 1987 Act.

136. Section 32A of the 1987 Act defines the relevant terms as follows:

“current work capacity, in relation to a worker, means a present inability arising from an injury such that the worker is not able to return to his or her pre-injury employment but is able to return to work in suitable employment.

no current work capacity, in relation to a worker, means a present inability arising from an injury such that the worker is not able to return to work, either in the worker's pre-injury employment or in suitable employment.

suitable employment, in relation to a worker, means employment in work for which the worker is currently suited:

- a. having regard to:
 - (i) the nature of the worker's incapacity and the details provided in medical information including, but not limited to, any certificate of capacity supplied by the worker (under section 44B), and
 - (ii) the worker's age, education, skills and work experience, and
 - (iii) any plan or document prepared as part of the return to work planning process, including an injury management plan under Chapter 3 of the 1998 Act, and
 - (iv) any occupational rehabilitation services that are being, or have been, provided to or for the worker, and
 - (v) such other matters as the WorkCover Guidelines may specify, and
- b. regardless of:
 - (i) whether the work or the employment is available, and
 - (ii) whether the work or the employment is of a type or nature that is generally available in the employment market, and
 - (iii) the nature of the worker's pre-injury employment, and
 - (iv) the worker's place of residence.”

137. Section 43 of the 1987 Act in existence prior to the 2012 amending Act and the authorities suggested that regard was to be had to “the realities of the labour market in which the employee was working or might reasonably be expected to work”¹³. Such is no longer the case according to s 32A of the 1987 Act.

¹³ *Arnotts Snack Products Pty Ltd v Yacob* [1985] HCA 2; 155 CLR 171.

138. Following the 2012 amendments, it is clear that “total incapacity” differs from “no current capacity”. “No current work capacity” requires a consideration of a worker’s capacity to undertake not only his or her pre-injury duties, but also suitable employment, irrespective of its availability. This was confirmed by Deputy President Roche in *Mid North Coast Local Health District v De Boer*¹⁴ and *Wollongong Nursing Home Pty Ltd v Dewar*¹⁵.
139. In *Dewar*, the Deputy President stated:
- “...employment for which the worker is currently suited is determined ‘regardless of whether the work or employment is ‘available’ and regardless of whether it is ‘of a type or nature that is generally available in the employment market’. However, other aspects of *Lawarra Nominees* and *Woods* remain relevant in determining whether a worker is ‘suited’ for suitable employment.”¹⁶
140. The Deputy President continued:
- “However, while the new definition of suitable employment has eliminated the geographical labour market from consideration, it has not eliminated the fact that ‘suitable employment’ must be determined by reference to what the worker is physically (and psychologically) capable of doing, having regard to the worker’s ‘inability arising from an injury’. Suitable employment means ‘employment in work for which the worker is currently suited’ However, whether, under the new provisions, he or she would be found to have no current work capacity will depend on a realistic \ assessment of the matters listed at (a) and (b) of the definition of suitable employment. Depending on the evidence, it is difficult to see that work tasks that are totally artificial, because they have been made up in order to comply with an employer’s obligations to provide suitable work under s 49 of the 1998 Act, and do not exist in any labour market in Australia, will be suitable employment.”¹⁷
141. Therefore, if the applicant has “no current work capacity”, I need to assess whether she was unable to return to both her pre-injury duties and suitable employment since 12 October 2019 when she was last paid weekly compensation.
142. According to Dr Crews and Dr Potter, the applicant is not fit to return to her pre-injury duties. Whilst Dr Teoh indicated that the applicant was fit to return to her full pre-injury duties, his opinion has been discounted by me.
143. The next question to consider is whether the applicant is fit for suitable employment as defined in s 32A of the 1987 Act. This requires a consideration of the nature of the incapacity and the details provided in medical information, the worker’s age, education, skills and work experience, any return to work plan, and any occupational rehabilitation services that have been provided to her, irrespective of whether the work is available to her or of a type or nature that is generally available in the employment market.
144. The applicant is currently 56 years old. Since 2002, she has worked as an administrative assistant for almost four years, as a manager of Lochinvar House in the Hunter Valley for 17 months, as a kitchen hand and cook for approximately four years and as a customer services assistant for eight months before commencing employment as a live in housekeeper and cook at the respondent. Therefore, she has a varied range of skills and work experience.
145. It appears that the applicant has not received any rehabilitation services or whether she has been involved in any return to work plan.

¹⁴ [2013] NSWCCPD 41.

¹⁵ [2014] NSWCCPD 55 (*Dewar*).

¹⁶ *Dewar* [56].

¹⁷ *Dewar* [57] to [60].

146. The medical evidence that I have preferred confirms that the applicant is still having counselling and she is taking medication for her on-going symptoms.
147. According to the medical certificates of Dr Crews, the applicant has had no current work capacity since 30 April 2019. Her certificates are largely identical, and I am troubled that each certificate seems to merely repeat what was said in the previous certificate. That might well be because there has been no change in the applicant's condition and the extent of her capacity, but without the benefit of a report from Dr Crews, I am largely in the dark.
148. According to Dr Potter, the applicant is unfit to return to her pre-injury duties at the respondent. However, he is more optimistic about a return to work on clinical grounds, although he recommends on-going treatment from a psychiatrist in addition to medication. Therefore, I consider that there is some merit in his assessment of the applicant's capacity.
149. Given the need for on-going and perhaps more intensive treatment by a psychiatrist, I do not believe that the applicant would have the capacity to work for full hours until she started to gain some benefit of further treatment. However, that does not mean that the applicant could not work at all in suitable employment.
150. Looking at the evidence overall, and giving the applicant the benefit of the doubt, I would have thought that she has the capacity to return to suitable work in an administrative, hospitality or sales role on a graded basis for, say, three hours per day for five days per week.
151. Having regard to the applicant's statements, the medical evidence as to her capacity, her age, skills, work experience and the other relevant factors to be considered in accordance with s 32A of the 1987 Act, I am satisfied on the balance of probabilities that the applicant has had the capacity to perform some work for 15 hours per week at \$21.74 per hour, being the applicant's hourly rate as a housekeeper and cook.

Quantification of the applicant's capacity – s 37 of the 1987 Act

152. The parties agreed that the applicant's PIAWE was \$826.12 per week. The PIAWE is indexed every six months in accordance with s 82A of the 1987 Act. Therefore, the PIAWE needs to be adjusted to \$831.16 on 1 October 2019.
153. In accordance with s 37(3)(a) of the 1987 Act, the applicant's entitlement to weekly compensation during the second entitlement period from 12 October 2019 to date and continuing is as follows:

$$\begin{aligned}
 & (\text{AWE} \times 80\%) - D = \\
 & (\$831.16 \times 80\%) - \$326.10 = \\
 & \$664.93 - \$326.10 = \$338.83 \text{ per week as adjusted.}
 \end{aligned}$$

154. Surprisingly, there is no claim for medical expenses in this matter. Given that I have accepted the applicant's medical evidence that supports the need for on-going psychological treatment, hopefully common sense will prevail, and the insurer will not dispute any reasonably necessary medical expenses in the future.

FINDINGS

155. The applicant sustained a psychological injury arising out of or in the course of her employment with the respondent on 30 April 2019 (deemed).
156. The applicant's employment was the main contributing factor to her injury.

157. The applicant was paid weekly compensation and medical expenses until 11 October 2019.
158. Since 12 October 2019, the applicant has had the capacity to undertake some work for 15 hours per week.
159. The applicant's PIAWE since 12 October 2019 have been \$831.16.
160. Since 12 October 2019, the applicant has had the ability to earn \$326.10 per week.

ORDERS

161. The respondent is to pay the applicant \$338.83 per week as adjusted from 12 October 2019 to date and continuing pursuant to s 37(3)(a) of the 1987 Act.